

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**MICHAEL HENRY HEARN,**

Plaintiff,

v.

Civil Action No. **3:11CV741**

**UNKNOWN,**

Defendant.

**MEMORANDUM OPINION**

Plaintiff, a Mississippi inmate, submitted this action and requested leave to proceed *in forma pauperis*. The pertinent statute provides:

In no event shall a prisoner bring a civil action [*in forma pauperis*] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.


28 U.S.C. § 1915(g). Plaintiff has at least three other actions or appeals that have been dismissed as frivolous or for failure to state a claim. *See, e.g., Hearn v. Warden*, No. 4:05cv18TSL-AGN, 3 n.2 (S.D. Miss. Jan. 28, 2005) (citing cases). Plaintiff's current complaint did not suggest that he was in imminent danger of serious physical harm. Accordingly, by Memorandum Order entered on December 9, 2011, the Court denied Plaintiff's request to proceed *in forma pauperis* and directed Plaintiff to pay the \$350.00 filing fee within eleven (11) days of the date of entry thereof.

More than eleven (11) days have elapsed since the entry of the December 9, 2011 Memorandum Order and Plaintiff has not paid the filing fee. Instead, Plaintiff submitted a host

of frivolous motions. Because the Plaintiff has failed to pay required filing fee, the action will be DISMISSED WITHOUT PREJUDICE. Plaintiff's outstanding motions will be DENIED.

An appropriate Order shall accompany this Memorandum Opinion.

Date: 2/27/12  
Richmond, Virginia

/s/   
John A. Gibney, Jr.  
United States District Judge